J.Chitra vs District Collector on 2 September, 2021

Author: L. Nageswara Rao

Bench: Aniruddha Bose, L. Nageswara Rao

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 5160 of 2010

J. Chitra ... Appellant

Versus

District Collector and Chairman
State Level Vigilance Committee,
Tamil Nadu & Ors. …. Respondents

J U D GE M E N T

L. NAGESWARA RAO, J.

1. A Writ Petition was filed by the Appellant challenging the order dated 09.04.2008 passed by the Chennai District Vigilance Committee cancelling the community certificate. The Writ Petition was dismissed by the High Court of Madras by a judgment dated 22.12.2008, aggrieved by which this Appeal is filed. The Tahsildar, Mylapore-Triplicane, Chennai issued a community certificate showing the Appellant to be from Valluvan community on 28.08.1982 when she was studying in tenth class. At the time of joining service in the Office of Accountant General, the Appellant applied for a community certificate. Tahsildar, Mylapore-Triplicane, Chennai issued a community certificate on 12.07.1985 which 1 | Page was submitted by the Appellant after joining the service on 17.07.1985. A complaint was preferred by Dr. Ambedkar Service Association in the Office of the Accountant General raising doubts about the community certificate produced by the Appellant at the time of joining service. The Appellant was directed to attend an inquiry to be conducted by the Collector regarding the genuineness of the community certificate. A notice was issued by the District Collector, Chennai on 27.05.1998 directing the Appellant to show-cause as to why her community certificate should not be cancelled. The District Collector directed the Revenue Divisional Officer to conduct an inquiry. An inquiry was conducted by the District Vigilance Committee. After conducting an inquiry, the District Vigilance Committee expressed its view that the Appellant belongs to

Valluvan community which is a Scheduled Caste.

2. On 27.01.2000, the service of the Appellant as Section Officer was regularized. The Appellant was promoted as Assistant Accounts Officer on 31.12.2001. In the meanwhile, Dr. Ambedkar Service Association submitted another representation that suitable action should be taken against the Appellant for securing employment as reserved category candidate on the basis of a false caste certificate. The State Level Scrutiny Committee informed the Appellant that a complaint was received from Dr. Ambedkar Service 2 | Page Association and directed the Appellant to be present for inquiry to be conducted on 24.03.2003. Responding to the notice, the Appellant attended the inquiry before the State Level Scrutiny Committee. In the meanwhile, the District Vigilance Committees were reconstituted by the Government of Tamil Nadu vide G.O. Ms. 111, Adi Dravidar and Tribal Welfare (ADW-10) Department dated 06.07.2005. The State Level Scrutiny Committee remanded the inquiry pertaining to the community certificate of the Appellant to the District Vigilance Committee on 04.01.2006. The functions of the District Vigilance Committees and State Vigilance Committees as well as the procedure to conduct an inquiry were enumerated by G.O. (2D) No.: 108, Adi Dravidar and Tribal Welfare (CV-I) Department dated 12.09.2007. The Appellant was directed to appear before the District Vigilance Committee pursuant to which the Appellant as well as her mother attended the inquiry and submitted relevant documents before the District Vigilance Committee. On 09.04.2008, an order was passed by the District Vigilance Committee cancelling community certificate of the Appellant. Assailing the legality and validity of the order dated 09.04.2008, the Appellant filed a Writ Petition in the High Court of Madras which was dismissed by a judgment dated 22.12.2008. Ergo, this Appeal.

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3. Mr. K. Ramamoorthy, learned Senior Counsel appearing for the Appellant submitted that the community certificate issued in favour of the Appellant was subject matter of an inquiry by the District Vigilance Committee in the year 1999. Thereafter, the State Level Scrutiny Committee did not have jurisdiction to remand the matter to the District Vigilance Committee for a fresh inquiry into the genuineness of the claim of the Appellant that she belongs to Scheduled Castes. The decision of the District Vigilance Committee on 31.12.1999 upholding the claim of the Appellant that she belongs to Valluvan Community remains unchallenged. Mr. K. Ramamoorthy argued that community certificates which have become final cannot be reopened as held by this Court in Kumari Madhuri Patil & Anr. v. Addl. Commissioner, Tribal Development & Ors.1 and Dayaram v. Sudhir Batham & Ors.2 He relied upon the memorandum of family settlement dated 01.11.1932 and the sale deed dated 05.10.1978 executed by Abdul Masjid Rawoother in favour of father of the Appellant which clearly show that the Appellant belongs to Scheduled Caste. He referred to G.O. (2D) No.:108 dated 12.09.2007 to state that the dispute relating to the community certificate issued in favour of the Appellant cannot be remitted by the State Level Scrutiny Committee to the District Level Vigilance Committee for reconsideration. 1 (1994) 6 SCC 241 2 (2012) 1 SCC 333 4 | Page The learned Senior Counsel for the Appellant contended that the order dated 09.04.2008 deserves to be set aside as the evidence recorded by the District Vigilance Committee are contrary to the findings arrived at by the District Vigilance Committee in the year 1999.

4. Mr. Pulkit Tare, learned counsel appearing for the State submitted that District Vigilance Committees for verification of community certificates issued to a Scheduled Caste/ Scheduled Tribe were reconstituted by G.O. (Ms) No.111, Adi Dravidar and Tribal Welfare dated 6.7.2005. Pursuant to the judgment of this Court in Kumari Madhuri Patil (supra), the Government constituted District Level Vigilance Committees at District Level and State Level Scrutiny Committee at State Level to verify genuineness of the community certificates issued to Schedule Castes/ Scheduled Tribes. After the reconstitution of District Level Vigilance Committees on 06.07.2005, the Government issued guidelines by G.O. 108 on 12.09.2007 for the functions of the District and State Level Scrutiny Committees relating to verification on the genuineness of the community service. The learned counsel for the State submitted that the remand by the State Level Scrutiny Committee to the District Vigilance Committee for a fresh inquiry into the community certificate of the Appellant was in accordance with the guidelines issued by the Government by G.O.108 dated 12.09.2007. It was further 5 | Page contended on behalf of the State that the District Vigilance Committee conducted a detailed inquiry to come to a conclusion that the Appellant does not belong to a Scheduled Caste.

5. Realizing the pernicious practice of false caste certificates being utilized for the purpose of securing admission to educational institutions and public employment depriving genuine candidates of the benefits of reservation, this Court in Kumari Madhuri Patil (supra) issued the following directions :

> "1. The application for grant of social status certificate shall be made to the Revenue Sub- Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.
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> 2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-

gazetted officer with particulars of castes and sub- castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission 6 | Page into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer high-er in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all 7 | Page particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity 8 | Page to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date

of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

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10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the 10 | P a g e State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post."

6. In Dayaram (supra), this Court was of the view that the Scrutiny Committee is an administrative body which verifies the facts and investigates into claims of caste status. The orders of the Scrutiny Committee are open to challenge in proceedings under Article 226 of the Constitution of India. It was further held by this Court that permitting civil suits with provisions for appeals and further appeals would defeat the very scheme and will encourage the very evils which this Court wanted to eradicate. It was observed that the entire scheme in Kumari Madhuri Patil (supra) will only continue till the legislature concerned makes an appropriate legislation in regard to verification of claims for caste status 11 | P a g e as SC/ST. It was made clear that verification of caste certificates issued

without prior inquiry would be verified by the Scrutiny Committees. Such of those caste certificates which were issued after due and proper inquiry need not to be verified by the Scrutiny Committees.

7. District Vigilance Committees for verification of community certificates issued to Scheduled Castes/ Scheduled Tribes were reconstituted on 06.07.2005 pursuant to the judgment of this Court in Kumari Madhuri Patil (supra). G.O. 108 dated 12.09.2007 contains guidelines issued by the Government of Tamil Nadu for the functioning of the District and State Level Vigilance Committees. The guidelines issued by the Government in G.O. 108 of 12.09.2007 are as follows:

> 1. In cases which were remitted to the three-member District Level Vigilance Committee by the State Level Scrutiny Committee as per the Court directions before 12.09.2007, the decision of the District Vigilance Committee reconstituted by G.O. 111 dated 06.07.2005 regarding the genuineness of community certificate of Scheduled Tribes is final.
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> 2. In case of community certificate issued by the Deputy Tahsildar/ Tahsildar has been found to be not genuine by the three-member District Vigilance Committee and an individual has filed an Appeal to the State Level 12 | P a g e Scrutiny Committee, the individual shall be directed to approach the High Court by filing a Writ Petition.
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> 3. If appeals are filed against orders passed by the two-

member District Level Vigilance Committee to the State Level Scrutiny Committee and were not remitted back to the reconstituted three-member Scrutiny Committee by the Government, in view of pendency of Writ Petitions before the Court, the State Level Scrutiny Committee shall conduct an inquiry.

8. In the instant case, an inquiry was conducted by the District Level Vigilance Committee which has upheld the community certificate in favour of the Appellant. The decision of the District Level Vigilance Committee in the year 1999 has not been challenged in any forum. The recognition of the community certificate issued in favour of the Appellant by the District Vigilance Committee having become final, the State Level Scrutiny Committee did not have jurisdiction to reopen the matter and remand for fresh consideration by the District Level Vigilance Committee. The guidelines issued by G.O.108 dated 12.09.2007 do not permit the State Level Scrutiny Committee to reopen cases which have become final. The purpose of verification of caste certificates by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste certificates would be detrimental to the members of Scheduled Castes and 13 | P a g e Scheduled Tribes. Reopening of inquiry into caste certificates can be only in case they are vitiated by fraud or when they were issued without proper inquiry.

9. The District Level Vigilance Committee cancelled the community certificate issued in favour of the Appellant after conducting an inquiry and coming to a conclusion that she belongs to Kailolan community and not to Valluvan community which is a Scheduled Caste. In view of the conclusion that the State Level Scrutiny Committee did not have the power to reopen the matter relating to the

caste certificate that was approved by the District Vigilance Committee in the year 1999 without any Appeal filed against that order, it is not necessary for us to deal with the submissions made on behalf of the Appellant relating to the correctness of the findings recorded by the District Vigilance Committee in the year 09.04.2008.

For the foregoing reasons, the order dated 09.04.2008 is set aside and the Appeal is allowed.

.....J. [L. NAGESWARA RAO] .....J [ANIRUDDHA BOSE]
New Delhi, September 02, 2021.